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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 10th December, 1985:—

BILL NO. 200 OF 1985

A Bill to provide for the constitution of a Board for the development of export of spices and for the control of cardamom industry including the control of cultivation of cardamom and matters connected therewith.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

4. (*1*) This Act may be called the Spices Board Act, 1985.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Spices Board constituted under sub-section (*1*) of section 3;

(*b*) "cardamom" means the fruit of cardamom plant and includes green cardamom, bleached cardamom, bleachable white cardamom, sun-dried cardamom, cardamom seeds, powdered cardamom and oil extracted from cardamom;

(*c*) "cardamom plant" means ELETTARIA CARDAMOMUM MATON, AMMOMUM SUBULATUM ROXB and any other plant which the Board may, by notification in the Official Gazette, declare to be a cardamom plant for the purposes of this Act;

(*d*) "certificate" means a certificate granted under section 12;

(*e*) "dealer" means a dealer in spices;

(*f*) "estate" means the area administered as one unit which contains land planted with cardamom plants;

(*g*) "export" and "import" mean, respectively, taking out of or bringing into India by land, sea and air,

(*h*) "manufacturer" means a manufacturer of spices;

(*i*) "member" means a member of the Board appointed under sub-section (*3*) of section 3;

(*j*) "owner", in relation to any land planted with cardamom plants, includes—

(*i*) any agent of the owner; and

(*ii*) a mortgagee, lessee or other person in actual possession of the land;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "registered estate" means an estate in respect of which an owner is registered under sub-section (*1*) of section 8 and includes any estate in respect of which an owner is required to be registered under the provisions of that sub-section;

(*m*) "registered owner" means an owner of a registered estate which has been or is registered or is required to be registered under sub-section (*1*) of section 8; and

(*n*) "spices" means the spices specified in the Schedule:

Provided that the Central Government may, if satisfied that it is necessary or expedient in the public interest so to do, by notification in the Official Gazette, add any other spice to the Schedule or omit any spice therefrom.

CHAPTER II

THE SPICES BOARD

Constitution and incorporation of the Board.

3. (*1*) **The Central Government shall, by notification in the Official Gazette, constitute, for the purposes of this Act, a Board, to be called the Spices Board.**

(*2*) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue and be sued.

(*3*) **The Board shall consist of such number of members, not exceeding thirty-two, as may be prescribed, and unless the rules made in the behalf otherwise provide, the Board shall consist of the following members, namely:—**

(*a*) a Chairman;

(*b*) **three Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;**

(c) three members to represent respectively the Ministries of the Central Government dealing with –

(i) Commerce;

(ii) Agriculture; and

(iii) Finance;

(d) six members to represent the growers of spices;

(e) eleven members to represent the exporters of spices;

(f) three members to represent major spice producing States;

(g) five members, one each to represent –

(i) the Directorate of Cocoa, Arecanut and Spices Development, Calicut;

(ii) the Indian Institute of Packaging, Bombay;

(iii) the Central Food Technological and Research Institute, Mysore;

(iv) the Regional Research Laboratory, Trivandrum; and

(v) the Central Plantation Crops Research Institute, Kasargode.

(4) The office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

(5) The term of office of the members and other conditions of service of the members shall be such as may be prescribed.

(6) The Chairman shall, in addition to presiding over the meetings of the Board, exercise and discharge such powers and duties of the Board as may be delegated to him by the Board and such other powers and duties as may be prescribed.

(7) The Board shall elect from among its members a Vice-Chairman who shall exercise such of the powers and perform such of the functions of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(8) No act or proceeding of the Board shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board;

(b) any defect in the appointment of a person acting as a member of the Board;

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Secretary and other officers.

4. (1) The Board may appoint the Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of the Secretary and other officers and employees of the Board shall be such as may be determined by regulations.

Advisory committees.

5. (*1*) Subject to any rules made in this behalf, the Board may, from time to time, constitute such committees as may be necessary for the efficient discharge of its functions.

(*2*) Every committee constituted under sub-section (*1*) shall consist of such number of persons as the Board may deem fit.

Transfer of assets and liabilities of the Cardamom Board and the Spices Export Promotion Council to the Board.

6. (*1*) On and from the commencement of this Act,—

(*a*) all properties and other assets vested in the Cardamom Board and the Spices Export Promotion Council immediately before such commencement shall vest in the Board;

(*b*) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the Cardamom Board or the Spices Export Promotion Council immediately before such commencement for or in connection with the purposes of the Cardamom Board or the Spices Export Promotion Council shall be deemed to have been incurred, entered into and engaged to be done by, with, or for the Board;

(*c*) all sums of money due to the Cardamom Board or the Spices Export Promotion Council immediately before such commencement shall be deemed to be due to the Board;

(*d*) all suits and other legal proceedings instituted or which could have been instituted by or against the Cardamom Board or the Spices Export Promotion Council immediately before such commencement may be continued or instituted by or against the Board; and

(*e*) every employee holding any office under the Cardamom Board or the Spices Export Promotion Council immediately before such commencement shall on such commencement hold his office or service under the Board with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting; and shall continue to do so unless and until his employment under the Board is duly terminated or until his remuneration and other conditions of service are duly altered by the Board.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

Functions of the Board.

7. (*1*) **The Board may—**

(*i*) **develop, promote and regulate export of spices;**

(*ii*) **grant certificate for export of spices and register brokers therefor;**

(*iii*) **undertake programmes and projects for promotion of export of spices;**

(*iv*) **assist and encourage studies and research for improvement of processing, quality, techniques of grading and packaging of spices;**

(*v*) **strive towards stabilisation of prices of spices for export;**

(*vi*) evolve suitable quality standards and introduce certification of quality through "Quality Marking" for spices for export;

(*vii*) control quality of spices for export;

(*viii*) give licences, subject to such terms and conditions as may be prescribed, to the manufacturers of spices for export;

(*ix*) market any spice if it considers necessary, in the interest of promotion of export;

(*x*) provide warehousing facilities abroad for spices;

(*xi*) collect statistics with regard to spices for compilation and publication;

(*xii*) import, with the previous approval of the Central Government, any spice for sale; and

(*xiii*) advise the Central Government on matters relating to import and export of spices

(*2*) The Board may also—

(*i*) promote co operative efforts among growers of cardamom;

(*ii*) ensure remunerative to growers of cardamom;

(*iii*) provide financial or other assistance for improve methods of cultivation and processing of cardamom, for replanting cardamom and for extension of cardamom growing areas;

(*iv*) regulate the sale of cardamom and stabilisation of prices of cardamom;

(*v*) provide training in cardamom testing and fixing grade standards of cardamom;

(*vi*) increase the consumption of cardamom and carry on propaganda for that purpose;

(*vii*) register and licence brokers (including auctioneers) of cardamom and persons engaged in the business of cardamom;

(*viii*) improve the marketing of cardamom;

(*ix*) collect statistics from growers dealers and such other persons as may be prescribed on any matter relating to the cardamom industry; publish statistics so collected or portions thereof or extracts therefrom;

(*x*) secure better working conditions and the provision and improvement of amenities and incentives for workers; and

(*xi*) undertake assist or encourage scientific, technological and economic research.

CHAPTER III

REGISTRATION OF OWNERS OF CARDAMOM ESTATES

Registration of owners of cardamom estates.

8. (*1*) Every owner of land planted with cardamom plants, whether such land is comprised in one estate or more than one estate, shall, before the expiration of one month from the date on which he first became owner of such estate or estates, apply to the registering officer appointed in this behalf by the State Government to be registered as an owner in respect of each estate owned by him:

Provided that the State Government may, for sufficient reasons, extend the time-limit for registration by such period as it thinks fit.

(2) Registration once made shall continue to be in force until it is cancelled by the registering officer.

Power of State Government to make rules.

9. (1) The State Government may, by notification in the Official Gazette, make rules to carry into effect the provisions of section 8.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such application, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers and the supply by registering officers of information to the Board

Returns to be made by registered owners.

10. (1) A registered owner shall furnish returns to the Board in such form, at such times and in such manner as may be prescribed.

(2) The Board may authorise an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

CHAPTER IV

CERTIFICATE FOR EXPORT OF SPICES

No person to export spices without certificate.

11. Save as otherwise provided in this Act, no person shall, after the commencement of this Act, commence or carry on the business of export of any spice except under and in accordance with a certificate:

Provided that a person carrying on the business of export of spices immediately before the commencement of this Act, may continue to do so for a period of three months from such commencement; and if he has made an application for such certificate within the said period of three months till the disposal of such application.

Explanation.—The reference in this section to the commencement of this Act shall be construed in relation to any spice added to the Schedule by notification under the proviso to clause (*n*) of section 2 as reference to the date with effect from which such spice is added to the Schedule.

Grant of certificate.

12. (1) An application for grant of certificate shall be made to the Board in such form and shall contain such particulars as may be prescribed and shall be accompanied by a receipt evidencing the payment of the prescribed fee.

(2) On receipt of such application, the Board shall,—

(*a*) if the application is not in the prescribed form or does not contain any of the prescribed particulars, return the application to the applicant; or

(*b*) if the application is in the prescribed form and contains the prescribed particulars, grant the certfiicate subject to such terms and conditions as may be determined by regulations.

Cancellation, suspension, etc of certificate

13. (1) The Board may cancel any certificate on any one or more of the following grounds, namely:—

(*a*) that the holder of the certificate has violated any of the terms and conditions of the certificate; and

(*b*) that in the opinion of the Central Government it is necessary in the interests of general public to cancel the certificate.

(2) Where the Board, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any grounds mentioned in sub-section (1), it is necessary so to do, the Board may, by order in writing, suspend the operation of the certificate for such period not exceeding forty-five days as may be specified in the order and require the holder of the certificate to show cause, within fifteen days from the date of receipt of such order, as to why the suspension of the certificate should not be extended till the determination of the question as to whether the registration should be cancelled.

(3) No order of cancellation of registration under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard in respect of the grounds for such cancellation.

Appeal.

14. (1) Any person aggrieved by an order made under section 13 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(5) The Central Government may confirm, modify or reverse the order appealed against.

Power to permit export without certificate.

15. The Central Government may, if satisfied that it is necessary or expedient, so to do, in public interest, by notification in the Official Gazette and subject to such conditions if any, as may be specified therein, permit any body or other agency to commence or carry on the business of export of spices without a certificate.

CHAPTER V

CONTROL BY THE CENTRAL GOVERNMENT

Power to control price and distribution of cardamom.

16. (1) The Central Government may, by order notified in the Official Gazette, fix in respect of cardamom of any description specified therein—

(a) the maximum price or the minimum price, or the maximum and minimum prices, which may be charged by a grower of cardamom or cardamom dealer, wholesale or retail, whether for the Indian market or for export; and

(b) the maximum quantity which may in one transaction be sold to any person.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), any order made thereunder may provide—

(a) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, cardamom to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto as may be specified in the order; and

(b) for such other matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, and the seizure by a person authorised to make such search, of cardamom in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be, committed.

Power to prohibit or control import of cardamom.

17. The Central Government may, by order published in the Official Gazette, make provision for prohibiting, restricting or otherwise controlling the import of cardamom, either generally or in specified classes of cases.

Power of the Central Government to issue directions.

18. (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of the Central Government to supersede the Board.

19. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do.

the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (*3*), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government may, reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (*a*) of sub-section (*2*), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants and loans by the Central Government.

20. The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary.

Board Fund.

21. (*1*) There shall be constituted a fund to be called the Spices Board Fund and there shall be credited thereto—

(*a*) any grants and loans made to the Board by the Central Government under section 20;

(*b*) all fees levied and collected in respect of certificates granted under this Act; and

(c) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(*2*) The Fund shall be applied for meeting—

(*a*) salary, allowances and other remuneration of the members, officers and other employees of the Board;

(*b*) expenses of the Board in the discharge of its functions under section 7; and

(c) expenses on objects and for purposes authorised by this Act.

Budget.

22. The Board shall prepare in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.

Annual report.

23. The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

Accounts and audit.

24. The accounts of the Board shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed and the Board shall furnish to the Central Government before such date as may be prescribed, its audited copy of accounts together with the auditors' report thereon.

Annual report and auditor's report to be laid before Parliament.

25. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received before each House of Parliament.

CHAPTER VII

MISCELLANEOUS

Penalty for making false returns.

26. Any person who being required by or under this Act to furnish any return fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to five hundred rupees.

Penalties for obstructing an officer or member of the Board in the discharge of his duties and for failure to produce books and records.

27. Any person who—

(*a*) obstructs any member authorised by the Chairman in writing or any officer or other employee of the Board authorised by it in this behalf or any person authorised in this behalf by the Central Government or by the Board, in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act; or

(*b*) having control over or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act.

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for contravention of order relating to control of price, etc.

28. (*1*) If any person contravenes any order made under section 16, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; and the property in respect of which the order has been contravened or such part thereof as the Court may deem fit, shall be forfeited to the Central Government.

(*2*) Any person who attempts to contravene, or abets the contravention of, any order under section 16 shall be deemed to have contravened that order.

Penalties for contravention of section 11 or any order made under section 17.

29. If any person contravenes the provisions of section 11 or any order made under section 17 he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

52 of 1962.

Other penalties.

30. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder other than the provisions, punishment for the contravention whereof has been provided for in sections 26, 27, 28 and 29, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Offences by companies.

31. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Provisions of Act 52 of 1962 to apply to export of spices and import of cardamom.

32. (*a*) All spices to which section 11 of this Act applies, and

(*b*) the cardamom to which any order under section 17 of this Act applies,

shall be deemed to be goods of which the import or export has been prohibited or restricted under section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly.

Previous sanction of the Central Government

33. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

Delegation

34. The Board may, by general or special order in writing, delegate to the Chairman or any other member or to any officer of the Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 39) as it may deem necessary.

Members, officers and employees of the Board to be public servants.

35. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

36. No prosecution or other legal proceeding shall lie against the Government, or the Board or any committee appointed by it, or any member of the Board or such committee, or any officer or employees of the Government or the Board or any other person authorised by the Government or the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to enter.

37. Subject to any rule made in this behalf, any person generally or specially authorised by the Board in this behalf, may, whenever it is necessary so to do, for any of the purposes of this Act, at all reasonable times, enter upon any land or premises and make any inspection or inquiry or do such other act or thing as may be prescribed:

Provided that no such person shall enter any building or any enclosed courtyard or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

Power to make rules.

38. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:

(*a*) the number of members of the Board under sub-section (*3*) of section 3;

(*b*) the term of office and other conditions of service of the members of the Board under sub-section (*5*) of section 3;

(*c*) the powers and duties of the Chairman under sub-section (*6*) of section 3;

(*d*) the powers and functions of the Vice-Chairman under sub-section (*7*) of section 3;

(*e*) the constitution of committees under section 5;

(*f*) the terms and conditions for grant of licences to manufacturers of spices for export under clause (*viii*) of sub-section (*1*) of section 7;

(*g*) the form and manner in which and the time at which the registered owner may furnish returns to the Board under section 10;

(*h*) the form of the application and the fees under sub-section (*1*) of section 12;

(*i*) the period of limitation for appeal under sub-section (*1*) of section 14;

(*j*) the form of appeal and the fees payable under sub-section (*3*) of section 14;

(*k*) the procedure for disposal of appeal under sub-section (*4*) of section 14;

(*l*) the form in which, and the time at which, the board shall prepare its Budget under section 22 and its annual report under section 23;

(*m*) the manner in which the accounts of the Board shall be maintained and audited and the date before which the audited copy of the accounts may be furnished to the Central Government under section 24;

(*n*) the conditions and the restrictions with respect to the exercise of the power to enter under section 37;

(*o*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

39. (*1*) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following, namely:—

(*a*) the terms and conditions of service of the Secretary and other officers and employees of the Board under sub-section (*2*) of section 4; and

(*b*) the terms and conditions under which the certificate may be granted under sub-section (*2*) of section 12.

Rules and regulations to be laid before Parliament.

40. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

41. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings,

42. (1) Sections 3 to 33 of the Cardamom Act, 1965 are hereby repealed. 42 of 1965.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Act shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

THE SCHEDULE

[*See* section 2(*n*)]

1. Cardamom
2. Pepper
3. Chilly
4. Ginger
5. Turmeric
6. Coriander
7. Cumin
8. Fennel
9. Fenugreek
10. Celery
11. Aniseed
12. Bishopsweed
13. Caraway
14. Dill
15. Cinnamon
16 Cassia
17. Garlic
18. Curry leaf
19. Kokam
20. Mint
21. Mustard
22. Parsley
23. Pomegranate seed
24. Saffron
25. Vanilla
26. Tejpat

in any form including curry powders, spice oil, oleoresins and other mixtures where spice content is pre-dominant.

STATEMENT OF OBJECTS AND REASONS

India has been a traditional exporter of spices. Though exports of spices from India have shown marginal increases over the last few years, the proportionate share of India in the total world trade has declined to about one-third.

2. At present, the Spices Export Promotion Council looks after the exports of spices while the development of production and exports of cardamom is being taken care of by the Cardamom Board. Due to lack of a cohesive organisation as well as financial constraints, India has not been able to undertake systematic development of products and export of spices. As a result, there has been limited product development and our spices are being exported largely in bulk and unprocessed form. Concentrated effort to promote exports in value added form and consumer packages are required to be made. Markets for spices as also the prices have been fluctuating from year to year causing fluctuations in the production pattern. The uneven production pattern has, in turn, its effect on exports. There is need for bringing out stabilisation in the export business of spices. Similarly, there is need to bring about constant improvement in quality of our products, and in productivity to improve competitiveness of Indian spices.

3. While a number of institutions and research organisations are operating in the spices sector, co-ordination of the activities of these agencies is considered necessary.

4. In view of these problems affecting the spices trade and industry, it has been considered that the future export policy should concentrate on increasing production and productivity of spices, development of spice exports in value added form and initiating production of new spices and spice products for the international market. For this purpose, it is proposed to set up a Spices Board replacing the Cardamom Board and the Spices Export Promotion Council. While absorbing the present assets and staff of these two organisations, the proposed Spices Board will be responsible for the entire range of functions of production, marketing, exports and export promotion with regard to cardamom and export promotion for all other spices. The new Board would have representatives of growers, Central and State Governments, Research Institutions, traders and exporters. It will be financed by a cess on exports within a ceiling of five per cent. The availability of funds will make it possible for it to direct and promote research and developmental activities aimed at increasing exports of spices and spice products. Such activities need the support of an organisation having a sound financial base to help the trade compete successfully against international competition.

5. The Bill seeks to achieve the above objects.

NEW DELHI; ARJUN SINGH.

The 25th November, 1985.

Notes on clauses

Clause 2 seeks to define certain words and expressions used in the **Bill.**

Clause 3,—

Sub-clause (*1*) provides for constitution of the Board

Sub-clause (*2*) makes such Board a body corporate.

Sub-clause (*3*) provides that the Board shall consist of members not exceeding thirty-two.

Sub-clause (*4*) provides that the office of the member of the Board shall not disqualify its holder for being a member of either House of Parliament.

Sub-clause (5) provides that the term of office of the members and other conditions of service of members of the Board may be prescribed.

Sub-clause (*6*) lays down the powers and duties of the Chairman.

Sub-clause (7) provides for the powers and functions of the Chairman.

Sub-clause (*8*) lays down that any vacancy, defect or irregularity in the constitution, appointment or procedure of the Board shall not invalidate the proceedings of the Board.

Clause 4 provides for the appointment of the Secretary, other officers and employees of the Board and their terms and conditions of service.

Clause 5 empowers the Board to constitute advisory committees as may be necessary for performing its functions.

Clause 6,—

Sub-clause (*1*) provides for transfer of assets and liabilities vested in the Cardamom Board and the Spices Export Promotion Council from the date of commencement of the Act. The clause further provides that—

(*a*) all debts, obligations and liabilities incurred, all contracts entered into by the Cardamom Board or the Spices Export Promotion Council shall be deemed to have been incurred or entered into by or for the Board;

(*b*) all sums of money due to the Cardamom Board or the Spiees Export Promotion Council shall be deemed to be due to the Board;

(*c*) all suits or legal proceedings with respect to any matter in relation to Cardamom Board or the Spices Export Promotion Council which have been or could have been instituted by or against the Cardamom Board or the Spices Export Promotion Council may be instituted against the Board.

(*d*) every employees holding office under the Cardamom Board or the Spices Export Promotion Council shall hold his office in the Board by the same tenure and upon the same terms and conditions of service.

Sub-clause (2) provides that absorption of any employee by the Board under this clause shall not entitle him to any compensation under the Industrial Disputes Act, 1947 (14 of 1947).

Clause 7 lays down the functions of the Board which, *inter alia*, include development, promotion and export of spices, grant of certificate for export of spices, undertake programmes and projects for promotion of export of spices, assist and encourage studies and research for improving of process, quality, technique of grading and packaging of spices, stabilisation of price of spices for export, evolve suitable quality standard and introduce certification of quality through quality marking for spices for export, control quality of spices for export, give licence to manufacturer of spices for export, market for spice in the interest of promotion of export, provide warehousing facilities abroad for spices, collect statistics, import with the approval of the Central Government any spice for sale and advise the Central Government on matters relating to import and export of spices.

Clause 8 provides for registration of owners of Cardamom Estates.

Clause 9 empowers the State Governments to make rules prescribing the form of application for registration, cancellation of registration and the fee payable by applicants for registration, etc.

Clause 10 provides that a registered owner shall furnish returns to the Board as may be required by the Board.

Clause 11 prohibits the export of spices without a certificate.

Clause 12 lays down the procedure for grant of certificate for export.

Clause 13 provides for cancellation, suspension, etc., of certificate of export.

Clause 14 lays down that a person aggrieved by an order of refusal to grant of certificate of export may prefer an appeal to the Central Government.

Clause 15 empowers the Central Government to permit any body or other agency to export or carry on the business of export without certificate.

Clause 16 empowers the Central Government to control price and distribution of cardamom.

Clause 17 prohibits the import of cardamom.

Clause 18 empowers the Central Government to issue directions to the Board.

Clause 19 provides for supersession of the Board.

Clause 20 provides for giving and grants and loans by the Central Government.

Clause 21 provides for constitution of Spices Board Fund.

Clauses 22, 23, 24 and 25 make usual provisions regarding preparation of budget, annual report, accounts and audit and laying of annual report and audit report before Parliament.

Clauses 26, 27, 28, 29 and 30 lay down the penalties for contravention of different provisions of the Act.

Clause 31 provides for offences by companies.

Clause 32 provides that the provisions of Customs Act, 1962 (52 of 1962) shall apply to export of spices and import of cardamom.

Clause 33 lays down that the previous sanction of the Central Government is necessary before any prosecution under the Bill.

Clause 34 provides for delegation of powers by the Board to the Chairman or any other member or officer of the Board.

Clause 35 lays down that all members, officers and other employees by acting in pursuance of any of the provisions of the Act shall be deemed to be public servant.

Clause 36 seeks to give protection to any member, officer or employee of the Authority in respect of anything done or intended to be done in good faith in pursuance of this Bill or the rules or regulations made thereunder.

Clause 37 seeks to empower any person generally or specially authorised by the Board to enter, inspect, survey or take levels of any land or premises necessary for the purposes of this Bill at all reasonable times.

Clause 38 confers upon the Central Government power to make rules in respect of number of members of the Board, term of office and the other conditions of service of members, powers, duties and functions of the Chairman and Vice-Chairman, the form for preparing budget and annual report, the form of appeal and procedure for disposal thereof, etc.

Clause 39 confers powers on Board to make, with the previous approval of the Central Government, regulations generally to carry out the purposes of this Bill.

Clause 40 provides laying of rules and regulations on the Table of both the Houses of Parliament.

Clause 41 seeks to empower the Central Government to remove any difficulty which may arise in giving effect to the provisions of this Bill.

Clause 42 seeks to repeal the Cardamom Board Act, 1965.

FINANCIAL MEMORANDUM

Sub-clauses (1) and (3) of clause 3 of the Bill provide respectively for the establishment and constitution of the Spices Board. Sub-clause (5) of clause 3 provides that the term of office of the members including the Chairman and other conditions of service of the members shall be such as may be prescribed.

2. Clause 4 provides for the appointment of the Secretary and other officers and employees of the Board. The Secretary, other officers and employees will be entitled to such salaries and allowances as may be determined by regulations under sub-clause (2) of clause 4. Provision has been made under clause 19(2) (b) for appointment of a person or persons to exercise and perform the powers and duties of the Board when the Board is superseded.

3. Clause 7 provides for the functions of the Board and these include, *inter alia*, developing, promoting and regulating export of spices and undertaking programmes and projects for promotion and export of spices.

4. The aforementioned provisions of the Bill involve expenditure towards—

(*a*) payment of salaries, allowances, etc., of the members of the Board including the Chairman, persons appointed to exercise the powers and duties of the Board when the Board is dissolved and of the officers and employees of the Board; and

(*b*) meeting other administrative expenses of the Board including expenses for discharging its functions.

5. Clause 21 of the Bill provides for the constitution of a Fund to be called the Spices Board Fund and the Fund is to be applied for meeting the aforementioned expenditure. The Fund will consist, *inter alia*, of the grants and loans given by the Central Government under clause 20 and the fees collected by the Board.

6. It is not possible at the present stage to indicate the expenditure involved. The Spices Board will utilise the budget available with the Cardamom Board in the first instance. However, it is estimated that additional amount of about Rs. 20 lakhs will be incurred initially on the establishment of the Board. When the Board expands its activities, its expenditure may increase further. The Board will meet its expenditure from its own Fund and any payments made to the Board by the Central Government after due appropriation made by Parliament by law in that behalf.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the State Government to make rules to prescribe the form of application for registration and its cancellation, the fee payable on such application, the particulars to be included in such applications and the procedure to be followed in granting and cancelling registration and the registers to be kept by registering officers.

Clause 38 of the Bill empowers the Central Government to make rules to provide, among other matters, the term of office and other conditions of service of members of the Board, powers and duties of the Chairman and Vice-Chairman, the constitution of the advisory committees, the form in which the Board may prepare its budget and annual report and maintain its accounts and the manner of audit of accounts, the conditions and restrictions with respect to the power to enter upon any land or premises.

Clause 39 of the Bill empowers the Board, to make, with the previous approval of the Central Government, regulations to provide for the terms and conditions of service of the Secretary and other officers and employees of the Board and the terms and conditions under which certificate for export may be granted.

The matters in respect of which rules and regulations may be made under the aforementioned provisions are matters of procedure or administrative detail and it is hardly practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 199 OF 1985

A Bill to provide for imposition of cess on all spices which are exported for the purposes of carrying out measures for the development of export of spices.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows.—

Short title, extent and commencement.

1. (*1*) This Act may be called the Spices Cess Act, 1958.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise, requires,—

(*a*) "Board" means the Spices Board constituted under sub-section (*1*) of section 3 of the Spices Board Act, 1985;

(*b*) "prescribed" means prescribed by rules made under this Act; and

(*c*) "spices" means the spices specified in the Schedule to the Spices Board Act, 1985.

Levy and collection of cess.

3. (*1*) There shall be levied and collected by way of cess for the purpose of the Spices Board Act, 1985, a duty of customs on spices at such rate not exceeding five per cent. ad valorem, **as the Central Government may, from time to time, specify by notification in the Official Gazette.**

(*2*) The duty of customs levied under sub-section (*1*) shall be in addition to the duty of customs leviable on spices under the Customs Act, 1962, or any other law for the time being in force. 52 of 1962.

(*3*) The provisions of the Customs Act, 1962, and the rules and regulations made thereunder, including those relatable to refund and exemption of duty, shall, so far as may be, apply in relation to levy and collection of the said duty of customs as they apply in relation to the levy and collection of the duty of customs on spices under that Act. 52 of 1962.

(*4*) The proceeds of the duty of customs levied under sub-section (*1*) of section 3 shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf so provides, pay to the Board from time to time, from out of such proceeds (after deducting the cost of collection) such sums of money as it may think fit for being utilised for the purposes of the Spices Board Act, 1985.

Power to call reports and returns

4. The Board may require any exporter of spices to furnish for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

Power to make rules.

5. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the form in which and the period within which statistical and other information may be furnished to the Board under section 4.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

This Bill is complementary to the Spices Board Bill, 1985 The Spices Board Bill, 1985 seeks to provide for the establishment of a Board to be called the Spices Board for the control of the cardamom industry and for the promotion of the export of cardamom and other spices. In order to ensure that the said Board has necessary resources to discharge its functions, this Bill seeks to provide for the levy by way of a cess of a duty of customs on all the spices specified in the Schedule to the Spices Board Bill which are exported The intention is to make over, after due appropriation by Parliament by law, the proceeds of the cess, to the said Board.

2. This Bill seeks to achieve the above objectives.

NEW DELHI; ARJUN SINGH.

The 25th November, 1985.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 11/5/84-EP(Agtl. III), dated the 26th November, 1985 from Shri Arjun Singh, Minister of Commerce to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Spices Cess Bill, 1985 recommends under clause (1) of article 117 of the Constitution of India, the introduction of the Bill in Lok Sabha and under clause (3) of article 117, the consideration of the said Bill in Lok Sabha.

FINANCIAL MEMORANDUM

With a view to ensuring that the Spices Board to be established under the Spices Board Bill, 1985, has necessary resources to discharge its functions, the Bill seeks to provide for the levy, by way of cess, of a duty of customs on spices specified in the Schedule to the Spices Board Bill, 1985, at such rate not exceeding five per cent. *ad valorem* as the Central Government may, by notification in the Official Gazette, specify.

2. The proceeds of the above-mentioned cess will be paid into the Consolidated Fund of India. The Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Board, from time to time, from out of such proceeds (after deducting the cost of collection), such sums of money as it may think fit.

3. The collection of the above-mentioned cess will involve some expenditure from the Consolidated Fund of India. It has not been possible at this stage to estimate the amount of such expenditure as that will depend upon various contingencies such as the rate at which the cess may be levied, the quality and quantity of spices which may be exported, etc. However, it is tentatively estimated that the collection of the cess would be about Rs. 250 lakhs per annum on an average. The expenses of collection would on this basis come to about Rs. five lakhs. As only the balance of the proceeds, after deducting the cost of the collection, may be utilized for making payment to the Board, there will, in effect, be no net out-go from the Consolidated Fund of India.

4. The expenditure on the collection of cess will be of a recurring nature and the Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to empower the Central Government to make rules for carrying out the provisions of the proposed legislation. The matters with respect to which rules may be made relate to the form in which and the period within which statistical and other information may be called for and other matters of detail.

2. The delegation of legislative power is, therefore, of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

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